



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 23rd November, 2001:—

BILL No. 90 OF 2001

A Bill to provide for the facilities of telephone and post and telegraph office in all the villages of the country.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Provision of Communication Facilities in every village Act, 2001.

Short title
and
commencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires, the words and expressions used but not defined in this Act and defined in the Indian Post Office Act, 1898 and the Indian Telegraph Act, 1885 shall have the meanings, respectively, assigned to them in these Acts.

Definition.

3. The Central Government shall provide in every village throughout the country the following facilities, namely:—

Provision of
communication
facilities in
villages.

(i) a post and telegraph office; and

(ii) a public telephone connection with STD facility under the control of head of the Village Panchayat.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make rules.

6 of 1898.
13 of 1885.

STATEMENT OF OBJECTS AND REASONS

In India, eighty-five per cent of the people live in villages. There are number of villages in remote areas inhabited by tribals and backward classes. For the last 54 years of our independence, no development work has been done at such places. There are no postal facilities available in these areas. There are no telephones and virtually the villages have no communication links with the rest of the country. It takes months together for a letter to reach villages. Most of the villagers come to the cities for work and remain cut off from their families due to non-availability of modern means of communication in their native villages. The postal, telephone and other communication facilities have thus become a must for every village. The villagers can keep their money in the post offices saving bank accounts and thereby a lot of money will be available to the Government for development works. The introduction of modern means of communication in every village will be the first step towards taking the boon of modern science to the doorsteps of rural India.

Hence this Bill.

NEW DELHI;
November 22, 2000.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every village shall be provided with the facilities of telephone, telegraph and post office by the Central Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees two hundred crore per annum will be involved as a recurring expenditure out of the Consolidated Fund of India.

A sum of rupees fifty lakh will also be involved as a non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 93 OF 2001

A Bill to provide for the basic minimum amenities of water, electricity, sanitation and health facilities in slums and Jhuggi-Jhopri clusters and for the clearance of such areas in larger public interest and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title,
extent and
Commence-
ment.

1. (1) This Act may be called the Slums and Jhuggi-Jhopri Areas (Basic Amenities and Clearance) Act, 2001.

(2) It extends to the Union territories and Metropolitan cities only.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different Union territories and Metropolitan cities.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a Metropolitan city falling within the jurisdiction of a State, the Government of that State and in other cases the Central Government;

(b) “building” includes any structure or erection or any part of a building but does not include a plant or machinery comprised in a building;

(c) “competent authority” means such officer or authority as the appropriate Government may by notification in the Official Gazette, appoint as the competent authority for the purposes of this Act;

(d) “Jhuggi-Jhopri” means small roughly built house or shelter usually made of mud, wood or metal having thatch or thin sheet roof covering;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "slum" means an area consisting of badly built, overcrowded houses, buildings or Jhuggi-Jhopri cluster;

(g) "slum clearance" means the clearance of any slum area by demolition and removal of buildings therefrom;

(h) "works of improvement" includes in relation to a slum area the execution of following works, namely:—

(i) necessary repairs of lanes, roads, etc.;

(ii) provision of light point, water taps and bathing places;

(iii) construction of drains, open or covered;

(iv) provisions of latrines, including conversion of dry latrines into water borne latrines; and

(v) removal of rubbish.

3. The competent authority may, from time to time, by notification in the Official Gazette, declare any area to be a slum area within the meaning of this Act.

Competent authority to declare slum areas.

4. The appropriate Government through the competent authority shall carry out works of improvement in slums and Jhuggi-Jhopri clusters from time to time in such manner as may be prescribed.

Competent authority to carry out works of improvement in slums and Jhuggi Jhopri clusters.

5. The appropriate Government shall provide minimum basic health facilities through primary health centres in slum areas and Jhuggi-Jhopri clusters in such manner as may be prescribed.

Health facilities in slums and Jhuggi Jhopri clusters.

6. The competent authority shall not allow a Jhuggi-Jhopri cluster to come upon a Government land and if any slum exists in such a land before the commencement of this Act, the competent authority shall remove it in such manner as may be prescribed.

Removal of Jhuggi Jhopri clusters from Government land.

7. Where the competent authority is satisfied that the most satisfactory method of dealing with the conditions in a slum area is the demolition of all the buildings in the area, the authority shall by an order notified in the Official Gazette declare the area to be a clearance area, that is to say an area to be cleared of all buildings in accordance with the provision of this Act and the rules made thereunder.

Power to declare any area to be a clearance area.

8. As soon as may be, after the competent authority has declared any slum area to be a clearance area it shall make a slum clearance order in such manner as may be prescribed and submit the order for the clearance by the appropriate Government and if the appropriate Government confirms the order, the order shall become operative from the date of such confirmation.

Slum clearance order.

9. The Central Government may, by notification in the Official Gazette, make rules for the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Crore of people in our country are living in slums and *Jhuggi-Jhopri* cluster under inhuman conditions. There are no basic facilities of potable water, electricity, sanitation and health services in these areas. However, people have no other option but to live in such slums and *Jhuggi-Jhopri* clusters. The Problem is more appalling in Metropolitan cities like Delhi, Bombay, Madras and Calcutta and such other big cities where people migrate in large numbers in search of employment. Poverty forces them to find shelter in slums and *Jhuggi-Jhopri* clusters. It is the duty of the concerned State Governments to provide basic facilities in such areas. However, sometimes *Jhuggi-Jhopri* clusters come upon Government land which is meant for other important purposes. Their clearance is necessary in larger public interest.

Hence this Bill.

NEW DELHI;
November 22, 2000.

RAMDAS ATHAWALE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that competent authority shall carry out works of improvement in slums and *Jhuggi-Jhopri* clusters. Clause 5 provides for health care facilities in slums. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of five hundred crore rupees will involve as recurring expenditure per annum.

A sum of rupees one hundred crore will also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules will relate to matters of detail only.

The delegation of legislative power is of a normal character.

BILL No. 184 of 2000

A Bill to provide for free and uniform education throughout the country.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Uniform Education Act, 2000.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(i) "appropriate Government" means the Central Government or the State Government, as the case may be; and

(ii) "education" means education upto higher secondary level.

3. It shall be the duty of the appropriate Government to provide free and compulsory education to not more than two children of a family irrespective of their caste, creed or colour.

Free and
compulsory
education.

Establishment
of Schools.

4. The appropriate Government shall establish and maintain one school for every one thousand people.

Uniform
system of
education in
all schools.

5. There shall be uniform system of education with Hindi and mother tongue as the subjects in all schools whether owned by, or receiving aid out of funds of the appropriate Government or owned or run by private organisations or individuals or societies or by minorities.

Free uniform
and books etc.
to students.

6. The appropriate Government shall provide breakfast, mid-day meal, uniform and books free of cost to all students in all schools.

Scholarship
to poor
students.

7. The appropriate Government shall provide rupees one hundred per month upto primary level and rupees two hundred per month upto higher secondary level as scholarship to every student, the income of whose parents or guardian from all the sources is less than rupees one thousand and five hundred per month.

Recognition
of
educational
certificates.

8. The appropriate Government shall not recognize any certificate awarded by a school not following uniform pattern of primary and/or higher secondary education under the provisions of this Act.

Assistance for
higher studies.

9. The Government shall provide all financial and other assistance to the students who have secured higher number of marks and desire to pursue higher technical education.

Power to
make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 45 of the Constitution provides that it shall be the duty of the State to provide free and compulsory education to all children until they attain fourteen years of age. Although, the Government has taken many steps to achieve this end, yet, they are not adequate. For the last fifty years of our independence, we have not been able to provide education to all the children. Our educational system is costly and a burden to every child. Poor parents are unable to send their children to schools. There have been many cases where dropouts from schools are increasing due to financial as well as over burdening problems and wrong education system. At present, we have schools run by the Government and those by private organisations and minorities. All these schools follow different pattern and as a result, there is no uniformity in the education imparted in these schools and they are charging high fees for admission which is beyond the capacity of an ordinary person whose income is less.

Uniformity in the system of school education will arouse consciousness of national integration in the highly sensitive and impressionable minds of the children. The type of education imparted to the children at the school level determines their growth in the final analysis as future citizens of the country.

Uniform system of education would avoid any feeling of discrimination or denial of equal opportunities in the matter of career advancement of the children.

Many parents, due to poverty, send their children to employment which adds to child labour in the country. Therefore, it is necessary to provide them with free meals, uniforms, books and scholarships so that such parents are motivated to send their children to schools. This is the only alternative to provide education to those who are deprived of education due to poverty.

It is, therefore, proposed to provide for uniform and free education upto the higher secondary level and also provide financial and other assistance to those children who have secured good position at higher secondary level in the schools.

NEW DELHI;
November 6, 2000.

Y. S. VIVEKANANDAREDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education. Clause 4 provides for appropriate Government shall establish and maintain schools for every one thousand people. It is not known how many schools will be required for carrying out the provisions of the Bill. Some expenditure will be involved in setting up of schools and provision of free meals, uniform, etc. and scholarships to poor students (clauses 6 and 7). Clause 9 provides for financial and other assistance to the students at higher secondary level. The expenditure in respect of schools in Union Territories shall be met out of the Consolidated Fund of India. Expenditure in respect of schools established in State shall be met out of the respective Consolidated Funds of States although some assistance may be extended by the Central Government.

It is estimated that an annual recurring expenditure of about rupees twenty crore is likely to be involved. A non-recurring expenditure to the tune of rupees thirty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 1 OF 2001

A Bill to provide for a scheme for eradication of unemployment from the country.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Provision of Employment Act, 2001.

Short title,
extent and
Commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means the State Government in the case of State and Central Government in other cases; and

(b) “prescribed” means prescribed by rules made under this Act.

3. The appropriate Government shall set up an employment exchange in every district under its jurisdiction.

Employment
Exchanges.

| | |
|---------------------------------------|---|
| Registration in employment exchanges. | 4. Every citizen shall register in the employment exchange stating his qualification, age and other particulars such as may be prescribed. |
| Provision of employment. | 5. The appropriate Government shall provide employment to every citizen who has attained the age of eighteen years and who is registered with the employment exchange. |
| Unemployment allowance. | <p>6. Till such time employment is provided to a citizen under section 5, the appropriate Government shall provide an unemployment allowance at the rate of rupees one thousand per month to every citizen who has passed tenth standard and rupees two thousand per month to every citizen who has qualifications higher than tenth standard or having technical qualifications:</p> <p>Provided that such unemployment allowance shall be paid to only two persons in a family.</p> |
| Unemployment Allowance Fund. | <p>7. (1) The Central Government shall constitute a fund, namely, Unemployment Allowance Fund.</p> <p>(2) The Central Government and every State Government shall contribute such sum of money to the fund every year as may be determined by the Central Government.</p> |
| Expenses to be met out of the fund. | 8. The expenses relating to implementation of the provisions of this Act shall be met out of the Unemployment Allowance Fund constituted under section 7. |
| Income-tax rebate. | 9. Any person who contributes to the fund shall be given a tax rebate of ten percent on his taxable income calculated for an assessment year. |
| Power to make rules. | 10. The Central Government may, by notification in the Official Gazette, make rules for implementing the provisions of this Act. |

STATEMENT OF OBJECTS AND REASONS

The problem of unemployment has assumed menacing proportions. Even the educated citizens have been rendered indigent. Lack of opportunity of employment in the country is also leading to brain drain and exodus of a large number of skilled and unskilled persons abroad. The educated youths are involving themselves in anti-social activities due to financial needs. The youths have started indulging in extremist activities also. It is time that concerted efforts are made by the State to assure employment to the citizens of the country and to provide unemployment relief to those who have not been able to secure employment. For the purpose of this, Government should set up the Unemployment Allowance Fund.

The Bill seeks to provide employment to unemployed citizens or unemployment allowance in lieu of employment.

NEW DELHI;
November 6, 2000.

Y. S. VIVEKANANDAREDDY

**PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND
274 OF THE CONSTITUTION**

[Copy of letter No. DGET-H-11019/7/2000-MP(G), dated 8 January, 2001 from Dr. Satyanarayan Jatiya, Minister of Labour to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Provision of Employment Bill, 2000 by Shri Y. S. Vivekananda Reddy, M.P., recommends the introduction and consideration of the Bill in Lok Sabha under articles 117 (1), 274 (1) and 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the appropriate Government shall provide employment to all citizens who have attained the age of eighteen years and who have registered with employment exchange. Clause 6 provides for payment of unemployment allowance. Clause 7 provides for constitution of a fund. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty crore is likely to be involved per annum.

A non-recurring expenditure of about rupees twenty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to frame rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 19 OF 2001

A Bill to provide for insurance of crops and for matters connected therewith.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Crop Insurance Act, 2001.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “crop” means and includes paddy, wheat, gram, barley, millet, corn, potato, pulses, sugar-cane, rape-seed, long-term fruit yielding crops like orange, mango, guava, grapes, etc. and such other agricultural commodities which may be notified, from time to time, by the Central Government in the Official Gazette;

(b) “natural calamity” means drought, floods, cyclone, storm and heavy rains; and

(c) “prescribed” means prescribed by rules made under this Act.

3. The Central Government shall formulate a scheme providing for insurance of crops throughout the country.

Crop Insurance
Scheme.

Insurance
scheme to be
applicable to
all farmers.

4. The insurance scheme shall be applicable to all farmers and in all the seasons.

Premium.

5. (1) The premium in respect of insurance shall be borne by the Central Government and the State Governments in such proportion as may be prescribed.

(2) Each farmer shall contribute towards the premium in such proportion as may be prescribed.

Payment of
insurance
amount.

6. It shall be the duty of the Central Government to pay insurance amount to the farmers for the loss of crops suffered by them due to any natural calamity.

Insurance
amount to be
paid within one
month.

7. (1) The insurance amount shall be paid within one month after the full assessment of the loss suffered by the farmers is made.

(2) While assessing the loss of crops, the difference between the normal/optimum yield and the actual yield of a crop shall be taken into consideration.

(3) Village as a unit shall form the basis for assessing the loss of crops.

Application of
other laws to
crop insurance.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to crop insurance.

Power to make
rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The farmers always greatly suffered due to floods, cyclone, drought, storm and heavy rains. It has been a common phenomenon that the standing crops are destroyed by the natural calamities every year. In most parts of the country, drought has also affected the crops. Frequent loss of crops suffered by the farmers has rendered them helpless and has even forced them to commit suicide. Due to loss of crops, farmers are not in a position to repay their loans to money lenders. Recently, heavy rains have damaged crops in some parts of the country and the Food Corporation of India refused to procure these stocks. This has also caused a great problem to the farmers. It is necessary to enact introduce a legislation so that these farmers are fully compensated for their loss of crops due to natural calamities.

Hence this Bill.

NEW DELHI;
February 2, 2001.

Y. S. VIVEKANANDAREDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for formulation of a Crop Insurance Scheme. Clause 5 provides that the premium in respect of crop insurance shall be borne by the Central Government and the State Governments. Clause 6 provides that it shall be the duty of the Central Government to pay to the farmers the insurance amount due to loss of crops. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. The State Governments will incur expenditure from their respective Consolidated Funds in respect of payment of premium of crop insurance. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL No. 47 of 2001

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2001.

Insertion of
new article
21A.

2. After article 21 of the Constitution, the following article shall be inserted, namely:—

Right to
housing.

“21A. Each family shall have the right to a dwelling unit with all modern facilities in accordance with such norms as may be prescribed by law.

Explanation.—For the purposes of this article “family” means husband, wife and two minor children.”.

STATEMENT OF OBJECTS AND REASONS

Shelter is the basic necessity for sustaining life. Right to life and other guarantees for the well-being of the citizens enshrined in the Constitution are meaningless for the millions of persons who have no shelter. It is necessary that right to shelter is guaranteed and made a fundamental right.

Hence this Bill.

NEW DELHI;
June 21, 2001.

G. S. BASAVARAJ

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that each family shall have the right to a dwelling unit. The Bill, if enacted, will involve expenditure for providing houses to families who are not having houses. Though housing is basically a State subject, yet the Central Government has to give grants to the State Governments for implementing the provisions of the Bill. It is estimated that an annual recurring expenditure of about rupees ten thousand crore is likely to be involved.

A non-recurring expenditure of rupees two thousand crore is also likely to be involved.

BILL No. 53 OF 2001

A Bill to provide for free and compulsory education to every girl child whose parents are living below poverty line.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Girls (Free and Compulsory Education) Act, 2001.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the State Government and in all other cases the Central Government;

(b) “education” means education up to higher secondary level;

(c) “girl” means a female who has not attained the age of eighteen years of age;

(d) “person living below poverty line” means a person whose income from all sources is less than rupees three thousand per month;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "school" means an educational institution imparting education.

3. (1) The appropriate Government shall provide free and compulsory education to every girl child whose parents are living below poverty line and are ordinarily residing in its territorial jurisdiction.

Free and compulsory education to girl child.

(2) The appropriate Government shall provide to every girl child born of parents living below poverty line, the following facilities:—

(i) free education up to higher secondary level;

(ii) free stationery items like books, note-books, writing materials;

(iii) free school uniform;

(iv) free hostel facility and meal during school time; and

(v) stipend at the rate of one hundred rupees up to primary level, two hundred rupees upto middle level and five hundred rupees per month up to higher secondary level.

4. The appropriate Government shall establish and maintain or cause to be established or maintained such primary, middle or higher secondary schools within its territorial jurisdiction as the appropriate Government may deem necessary for the purpose of carrying out the provisions of this Act.

Establishment of schools by the appropriate Government.

5. It shall be responsibility of every parent to get his girl child admitted to a school for receiving education and the parent shall not in any manner restrain the girl child from attending the school till she completes her education.

Responsibility of parents to send every girl child to school.

6. No person shall employ a girl child in such a job which prevents her from attending school for receiving education.

Restriction on employment of a girl child.

7. Any person including a parent, who for any reason prevents, restrains or otherwise obstructs a girl child from receiving education in a school, shall be liable to simple imprisonment which may extend to one year.

Punishment for violation of provisions of the Act.

8. The Central Government may make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The ability to read and write is an essential element of human capability. Literacy is the first step towards acquiring tools of learning and opening the doors for knowledge and information. Education expands opportunity for girls, empowers them to resist oppression and to claim their right.

In our country, girls belong to weaker and vulnerable section of the society. Although many steps have been taken to improve their conditions, yet nothing concrete has been done. Even today, girls are not treated equally and are subject to discrimination by their parents. They are kept away from schools and are forced to assist their mothers in household affairs and are deprived of childhood joys.

It is the appropriate time to take stock of the situation and to ensure that girls belong to poor families are given free and compulsory education. They should also be provided with facilities like free stationery items, free uniform, writing materials, hostel facilities etc. to encourage them to get education. This will not only help in eradication of illiteracy from the country but will also help the girls to grow and compete with their male counterparts.

Hence this Bill.

NEW DELHI;
June 21, 2001.

G. S. BASAVARAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory education and other facilities to every girl child whose parents are living below poverty line by the appropriate government. Clause 4 provides for establishment of schools by the appropriate government. The Central Government will bear the expenditure incurred in respect of Union territories and the State Governments will bear the expenditure incurred in respect of their States out of their respective consolidated funds.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five thousand crore per annum is likely to be involved.

A non-recurring expenditure of about rupees eight hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 75 OF 2001

A Bill to provide for recognition and regulation of voluntary organisations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Voluntary Organisations (Regulation) Act, 2001.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means the State Government in relation to a State and the Central Government in other cases;

(b) “fund” means Voluntary Organisations Assistance Fund established under section 10;

(c) “prescribed” means prescribed by rules made under this Act;

(d) "Voluntary Organisation" means any organisation or institution or society whether incorporated or registered or not, which is engaged in any of the following activities, namely:—

- (i) promoting literacy and adult education;
- (ii) involved in relief operations during natural calamities like floods, earthquakes, storms, squalls and likewise;
- (iii) involved in relief operations and providing assistance to victims in cases of accidents;
- (iv) involved in relief operations and providing assistance to victims during strikes and other forms of disturbances;
- (v) organizing free medical camps, distributing free medicines, promoting in any way health awareness among general public or running free and charitable dispensaries;
- (vi) providing assistance to orphaned children and running orphan children homes;
- (vii) running schools for orphaned and destitute children and providing them with all necessary facilities;
- (viii) running homes for destitute women and providing all facilities and training in self-employment;
- (ix) running homes for aged and old persons, wherein all necessary facilities and support are provided;
- (x) creating awareness among general public regarding pollution hazards and teaching methods of pollution control;
- (xi) creating awareness among general public regarding dangerous diseases like AIDS and other contagious diseases;
- (xii) creating awareness among general public about family planning;
- (xiii) creating awareness among general public about ill effects of social evils like dowry, domestic discords and negligence of dependent persons;
- (xiv) creating awareness among general public the need for religious, caste and linguistic harmony and educating public about measures to be adopted to achieve harmony;
- (xv) spreading and taking all necessary steps to enable people to lead a peaceful and healthy life and for improving general standard of life;

without any profit or commercial intention or motive.

Establishment
of a National
Board of
Voluntary
Organisations.

3. (1) The Central Government shall establish a National Board of Voluntary Organisations at New Delhi.

(2) The Board shall consist of—

- (i) a Chairman who shall have experience in social services for a period of not less than ten years, to be appointed by the Central Government;
- (ii) four other members who shall have experience in social services for a period of not less than five years, to be nominated by Central Government on rotation basis;
- (iii) the Chairman and other members shall be appointed for a term of five years.

Regional
Board of
Voluntary
Organisations.

4. (1) The Central Government shall establish a Regional Board of Voluntary Organisations in capital of every State / Union territory.

(2) The Regional Board shall consist of—

(i) a Chairman who shall have experience in social services for a period not less than ten years, to be appointed by the Central Government;

(ii) two other members who shall have experience in social services for a period of not less than five years, to be nominated by the Central Government on the basis of recommendation of the State Government concerned;

(iii) the Chairman and other members shall be appointed for a term of five years.

5. The National Board and every Regional Board shall consist of such number of employees as the Central Government may prescribe.

Employees of National Board and Regional Board.

6. Every voluntary organisation shall within a period three months from the date of commencement of this Act, apply to the Regional Board for registration with such particulars as may be prescribed.

Application for registration.

7. Every Regional Board shall on receipt of an application from a voluntary organisation, declare whether the application for registration has been accepted or rejected and in case the application has been rejected, the reasons therefor.

Registration.

8. Any voluntary organisation, whose application for registration has been rejected may appeal to the National Board.

Appeal.

9. The National Board may hear the views of the Regional Board and that of voluntary organisation concerned and take a decision which shall be binding on both the parties :

Decision of National Board.

Provided that the National Board may before taking a decision, consult experts in the relevant fields.

10. (1) The Central Government shall constitute a Voluntary Organisations Welfare Fund.

Constitution of a Voluntary Organisations Welfare Fund.

(2) The Central Government and all State Governments shall contribute to the Fund in such ratio as may be prescribed.

11. (1) The Central Government shall administer the fund in such manner as may be prescribed.

Administration of Fund.

(2) The Central Government shall make a grant to each voluntary organisation every year or at such intervals as it may determine.

(3) While making a grant under sub-section (2), the Central Government shall consult the National Board and the member of Parliament representing the constituency in which the organisation is situated:

Provided that the National Board may consult the Regional Board concerned in whose jurisdiction the office of the voluntary organisation is situated.

12. Every voluntary organisation which is in receipt of grant from the Central Government shall send an annual report to the Regional Board about its activities during the year and a statement of receipts and expenditure of the organisation.

Annual Report of voluntary organisation.

13. Every Regional Board shall send the annual reports received from various voluntary organisations under its jurisdiction to the National Board alongwith its comments on the performance of the voluntary organisations.

Regional Boards to send annual reports to National Board.

14. The Central Government may, after due consultation with National Board, reduce the amount of grant or withhold the total amount of grant payable to a voluntary organisation for such period as it may determine.

Withholding of grants to voluntary organisation.

Regional Board to recommend action against voluntary organisation.

15. If, after an enquiry it is found that any voluntary organisation does not utilise the money for the purpose for which it was granted or involves itself in any activities other than for which it was formed, the Regional Board may recommend to the National Board for taking such action against the voluntary organisation as it may deem fit.

National Board to take action.

16. The National Board on receipt of a report from a Regional Board shall take such action against the voluntary organisation as it may deem fit.

Power to make rules.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Voluntary organisations play a significant role in the development of the nation. They supplement the activities of the Government in times of crisis. In times of natural calamities, voluntary organisations come to rescue of the affected persons even before the Government. They are doing a yeoman service to the society. These voluntary organisations are engaging themselves in wide range of activities i.e. in providing education, health care, running homes for orphaned children, old age homes, providing free food and medicines to the needy people. However, many of the voluntary organisations are lacking adequate funds to undertake their activities. They mainly depend upon funds received through contributions and donations which is not enough to meet its expenditure. Moreover, there is no mechanism at present, for registration and regulation of the affairs of voluntary organisations. They do not have a legal status.

At present, Government provides grants to many voluntary organisations. But there is no check on utilisation of money granted to them and their activities. As such, these organisations utilise the money for the purposes other than for which it was granted. On the other hand genuine voluntary organisations are deprived of any assistance from the Government.

There is an urgent need to provide for registration and regulation of voluntary organisations for their better involvement in welfare activities.

The Bill seeks to achieve the above objective.

NEW DELHI;
July 24, 2001.

V. SAROJA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of National Board of Voluntary Organisations. Clause 4 provides for the setting up of Regional Boards in every State. Clause 5 makes provision for appointment of officers and staff for the Board. Clause 10 provides for the constitution of a Voluntary Organisations Welfare Fund to which both Central and State Governments will contribute. Clause 11 provides for making grants to voluntary organisations every year. The Bill, therefore, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India. A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matters will relate to detail only, the delegation of legislative power is of a normal character.

BILL NO. 69 OF 2001

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Fifty-Second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Indian Penal Code (Amendment) Act, 2001.

Amendment
of Section
375.

2. In section 375 of the Indian Penal Code, for the existing 'Explanation', the following 45 of 1860.
Explanation shall be substituted, namely,—

"Explanation—For the purposes of this section 'rape' includes penetration and sexual assault not resulting in penetration."

STATEMENT OF OBJECTS AND REASONS

In our country rape incidents are very common. Sexual assaults on women, especially on young girls, have become very common. Sexual assaults do not strictly come within the ambit of rape as defined in Indian Penal Code. The victims of sexual assaults have no recourse to any justice. At the most they can file charges which invoke lesser punishments under Indian Penal Code.

With this in view, it is proposed to extend the definition of 'rape' to include sexual assaults also in order to bring to book those who are found guilty.

NEW DELHI;
July 24, 2001.

V. SAROJA

BILL No. 72 OF 2001

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Cinematograph (Amendment) Act, 2001.

2. In section 5B of the Cinematograph Act, 1952, after sub-section (1), the following sub-section shall be inserted, namely:— 37 of 19

Amendment
of section 5B.

“(1A) A film shall not be certified for public exhibition if it contains scenes depicting song and dance and fight sequences in places of worship or scenes hurting religious sentiments.”.

STATEMENT OF OBJECTS AND REASONS

In the recent past, many films have been released depicting scenes of song and dance sequences in places of worship. Places of religious worship should not be used for such scenes. Religious sentiments should not be hurt. No film should be certified if it depicts scenes likely to hurt religious sentiments. The Bill seeks accordingly to amend the Cinematograph Act.

Hence this Bill.

NEW DELHI,
July 24, 2001.

V. SAROJA

BILL No. 62 OF 2001

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2001.

Insertion of
new article
22A.

2. After article 22, the following heading and article shall be inserted, namely,—

Rights of Children

Rights of
children.

“22A. Every child shall have—

- (a) the right to post-natal care up to two years of birth;
- (b) access to children parks, games, etc.;
- (c) the right to quality education from nursery up to higher secondary level;
- (d) comprehensive health care;
- (e) the right not to work in any factory or establishment;
- (f) creche facilities, if both the parents are employed;
- (g) the right to learn arts, fine arts, literature, etc.; and
- (h) nutritious meals and diet during school hours free of cost.

Explanation:— For the purposes of this article, a child means a child who is below eighteen years of age and born of parents atleast one of whom is an Indian citizen.”

Parliament to
make law for
implementation
for provision
in article 22.

22B. Parliament shall, within one year from the date of commencement of the Constitution (Amendment) Act, 2001 by law make provisions necessary for implementation of the proposals contained in article 22A.

STATEMENT OF OBJECTS AND REASONS

Children are the future of the country. But they are exploited in all possible ways. They are harassed. They do not have access to schools. They are made to work for hours together. They do not get nutritious diet. As such, majority of them often fall sick. When they have to play and learn they are either rolling cigarettes or involved in manufacture of crackers.

They should be given every opportunity to learn, grow and come up as responsible and useful citizens of the country. With this in view, it is proposed to insert a new Chapter "Rights of Children" in the Constitution which would be enforceable.

NEW DELHI;
July 24, 2001.

V. SAROJA

FINANCIAL MEMORANDUM

The Bill seeks to provide for certain facilities free of cost to children. Of course, a law will be enacted to determine the beneficiaries. Yet, some expenditure will be involved from the Consolidated Fund of India when the provisions come into force. It is likely that an annual recurring expenditure of about rupees two thousand crore will be involved.

A non-recurring expenditure of about rupees one thousand crore will also be involved.

BILL No. 92 OF 2001

A Bill to provide for prevention of and protection against custodial crimes for compensation in cases of custodial offences, for appointment of Vigilance Commissioner and District Vigilance Commissioners for custodial offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

Short title and
Commencement.

1. (1) This Act may be called the Custodial Crimes (Prevention, Protection and Compensation) Act, 2001.

(2) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “custodial crime” or “custodial offence” means an offence as understood by the Indian Penal Code (45 of 1860) caused against any arrested person or a person in custody when that person was in the custody of a police officer or a public servant who has power under any law to arrest and detain a person in custody, by the police officer or by the public servant concerned having the custody of that person during that period;

(b) “custody” shall include both legal and illegal arrest or custody;

(c) “District Vigilance Commissioner” means the District Vigilance Commissioner for custodial offences appointed under sub-section (3) of section 17;

(d) “Government” means the Government of a State or the Government of a Union territory, as the case may be;

(e) “prescribed” means prescribed by rules made by the Government under this Act;

(f) “Vigilance Commissioner” means the Vigilance Commissioner for custodial offences appointed under sub-section (1) of Section 17; and

(g) words and expressions used herein and not defined but defined in the Indian Penal Code (45 of 1860) or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in these codes. 2 of 1974.

1 of 1872.

3. (1) Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law in force, in a prosecution of a police officer or any public servant for a custodial offence, including death or injury in custody, the Court may presume that the offence, death or injury was caused by the police officer or the public servant having the custody of that person during that period.

Presumption in custodial offences including death or injury.

(2) The Court, in deciding whether or not to draw a presumption under sub-section (1), shall have regard to all the relevant circumstances including, in particular, (a) the period of custody, (b) any statement made by the victim as to how the injuries were received, being a statement admissible in evidence, (c) the evidence of any medical practitioner who might have examined the victim, and (d) evidence, if any, of any magistrate who might have recorded the victim's statement or attempted to record it.

4. A police officer arresting a person who has been concerned in an offence under any law must be reasonably satisfied, and must record such satisfaction, relating to the following matters namely:—

Conditions precedent to arrest.

(a) that the complaint, information or suspicion is not only in respect of an offence having been committed, but is also in respect of the complicity of the person to be arrested in that offence;

(b) that the arrest is necessary in order to bring the movement of the person to be arrested under restraint, so as to inspire a sense of security in the public or to prevent the person to be arrested from evading the process of the law or to prevent him from committing similar offence or to prevent him from interfering with evidence or witnesses or from indulging in violent behaviour in general; and

(c) that the arrest, and not a service of notice of appearance under sub-section (1) of section 5, is absolutely necessary.

5. (1) A police officer may instead of arresting the person concerned, issue to him a notice of appearance requiring him to appear before the police officer issuing the notice at such place as may be specified in the notice and to co-operate with the police officer in the investigation of the offence mentioned in the notice.

Notice to appear.

(2) It shall be the duty of a person to whom notice has been issued under sub-section (1) to comply with the terms of the notice and so long as such a person continues to do so, he shall not be arrested in respect of the offence mentioned in the notice, unless for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(3) Where a person to whom notice has been issued under sub-section (1), fails, at any time, to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent court.

6. Where a person is to be arrested, then, unless the circumstances indicate to the contrary, his submission to custody on an oral intimation of arrest shall be presumed, and unless the circumstances otherwise require, the police officer shall not actually touch the person of the one being arrested.

Presumption as to submission to custody.

7. (1) Whenever a person is arrested by a police officer, intimation of the arrest shall be immediately sent by the police officer (along with intimation about the place of detention) to the following person, namely:—

Right to intimation of arrest to relative, friend or other person, and custody memorandum.

(a) a relative or friend or other person known to the arrested person, as may be nominated by the arrested person;

(b) failing (a) above, the local legal aid committee.

(2) Such intimation shall be given by telephone or telegram or by any other method as may be convenient and as may convey the intimation fast enough and the fact that such intimation has been sent shall be recorded by the police office under the signature of the arrested person.

(3) The police officer shall prepare a custody memo and body receipt of the person arrested, duly signed by him and by two witnesses of the locality where the arrest has been made, and deliver the same to the relative of the person arrested, if he is present at the time of arrest or, in his absence, send the same alongwith the intimation of arrest to the person mentioned in sub-section (1).

(4) The custody memo mentioned in sub-section (3) shall contain the following particulars:—

- (a) name of the person arrested and father's name or husband's name;
- (b) address of the person arrested;
- (c) date, time and place of arrest;
- (d) offence for which the arrest has been made;
- (e) property, if any, recovered from the person arrested and taken into charge at the time of the arrest; and
- (f) any other relevant particular.

Right to
Legal
Practitioner
during
interrogation.

8. The person arrested shall have the right to have the presence and advice of a legal practitioner during interrogation and his legal practitioner shall be allowed to remain present and to advise him.

Record in
police diary
as to rights of
the arrested
person.

9. A police officer effecting an arrest shall inform the person arrested as soon as he is brought to the police station, of the rights of the arrested person under sections 7 and 8 and shall make an entry in the police diary about the following facts:—

- (a) the name of the person who was informed of the arrest;
- (b) the fact that the person arrested has been informed of his rights under sections 7 and 8;
- (c) the name of the legal practitioner of the person arrested; and
- (d) the fact that a custody memo has been prepared as required by sub-sections (3) and (4) of section 7.

Magistrates
satisfaction as
to compli-
ance with
certain
sections.

10. When an arrested person is produced before a Magistrate, the Magistrate shall satisfy himself that the provisions of sections 4,5,6,7,8 and 9 of sub-sections (1) and (2) of section 11 have been duly complied with and shall further inform the arrested person of his right to medical examination under section 54 of the Code of Criminal Procedure, 1973.

2 of 1974.

Provisions as
to male child
and female.

11. (1) Except in unavoidable circumstances, no male child below the age of fifteen years or a female shall be arrested after sunset and before sunrise, and where such unavoidable circumstances exist, the police officer making the arrest shall, by making a written report, obtain the prior permission of the immediate superior officer not below the rank of an inspector for effecting such arrest, if the case is one of extreme urgency, he shall, after making the arrest, forthwith report the matter in writing to his such immediate superior officer, with the reason for arrest and the reason for not taking prior permission as aforesaid and shall also make a similar report to the Magistrate within whose jurisdiction the arrest has been made.

(2) Where a female is to be arrested, then, unless the circumstances otherwise require and unless the police officer arresting is a female, the police officer shall not actually touch the person of the woman for making the arrest.

Explanation: The provisions of sub-section (2) are in addition to the provisions of section 6.

(3) A female in custody shall be escorted by the Matron or Female Warden or Female Police Officer, if required to leave the female enclosure and such matron or female warden or female police officer shall remain with the female who is in custody or in prison till her return to the enclosure or release from the custody or the jail.

(4) A female relative of the female in custody shall be allowed to accompany the female who is in custody during her transit from one enclosure to another or for the purpose of being taken to the court or for investigation.

(5) A male child of less than fifteen years of age in custody shall be allowed to be accompanied by his relative during his transit from one enclosure to another or for the purpose of being taken to the court or for investigation.

2 of 1974.

12. (1) Where under section 54 of the Code of Criminal Procedure, 1973 or otherwise, a magistrate directs the examination of the body of an arrested person or a person under custody, the said examination shall be conducted by a Registered Medical Practitioner or through a Government Hospital available, as the Magistrate may, direct.

Medical examination of the arrested person or the person in custody.

(2) A female arrested or in custody shall be examined by and under the supervision of only a lady medical practitioner as the magistrate may direct and the examination shall be conducted with strict regard to decency.

(3) The medical practitioner to whom an arrested person or a person in custody is forwarded under sub-section (1) or (2), shall without delay examine him/her and prepare a record and specifically record the following details about the person examined:—

(1) the name and address of the person examined and of the person by whom he/she was brought;

(2) the age of the person;

(3) the injury external and internal, if any, on the person;

(4) general mental condition of the person;

(5) other material particulars and any other relevant details; and

(6) where the person is a woman, whether or not she is pregnant.

(4) The report of the medical practitioner shall precisely state the reasons for any conclusion arrived at by the medical practitioner and the exact time of commencement and completion of the medical examination.

(5) The medical practitioner shall without delay forward his report to the Magistrate who had directed the examination of the body.

(6) The person examined shall be entitled to a copy free of cost of the report of the medical practitioner under this section as soon after the Magistrate received the report under sub-section (5).

13. (1) Every information relating to the commission of a custodial crime or offence if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction and be read over to the informant and every such information whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it, and the substance thereof shall be entered in book to be kept by such officer in such form as may be prescribed in this behalf.

Information of custodial crimes and procedure thereafter.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant and shall also be forwarded immediately to the Vigilance Commissioner or the District Vigilance Commissioner as the case may be.

(3) Any person (including Legal Aid Centre or Non-Governmental Organisation or any friend or relative) aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may file a petition giving the substance

of such information—

(a) before the Chief Judicial Magistrate in case of custodial offences other than those involving death of the victim, or

(b) before the Sessions Judge in case of a custodial offence involving death.

(4) The person filing a petition under sub-section (3) shall also forward a copy of the petition to the Vigilance Commissioner or the District Vigilance Commissioner, as the case may be.

(5) The Chief Judicial Magistrate or the Sessions Judge, as the case may be, if satisfied on a preliminary enquiry that there is a *prima facie* case may himself hold enquiry into the complaint made under sub-section (3) or direct other Judicial Magistrate or Additional Sessions Judge, as the case may be to hold enquiry and direct the ministerial officer of the Court to make a complaint to the Competent Court in respect of offence that may appear to have been committed.

(6) Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1973, the Competent Court shall on a complaint made under sub-section (5) take cognizance of the offence and try the same.

(7) The Chief Judicial Magistrate or the Sessions Judge may obtain the assistance of the Vigilance Commissioner or the District Vigilance Commissioner or any public servant or authority as he may deem fit in holding the enquiry under sub-section (5).

Compensation in custodial offence.

14. (1) Notwithstanding the provisions of Section 357 of the Code of Criminal Procedure, 1973 where the court convicts a public servant of a custodial offence including an offence resulting in death or bodily injury, being an offence constituted by an act of such public servant against a person in his custody, the provisions of this section shall apply. 2 of 1974.

(2) The Court, when passing judgement in any case to which this section applies, shall order that the Government in connection with the affairs of which such public servant was employed at the time when such act was committed, shall be liable jointly and severally with such public servant to pay, by way of compensation, such amount as may be specified in the order.

(3) An order for payment of compensation under this section may also be made by an appellate court or by the High Court or Court of Session when exercising its powers of revision.

(4) While rewarding compensation in any subsequent suit relating to the same matter, the civil court shall take into account any sum paid or recovered as compensation under this section.

(5) The amount awarded under this section shall not be less than:

(a) rupees twenty five thousand in case of bodily injury, not resulting in death;

(b) rupees two lakh, in case of death.

(6) In fixing the amount of compensation under this section, the court shall, subject to the provisions of sub-section (5), take into account all relevant circumstances, including (but not necessarily limited to) the following:

(a) the type and severity of the injury suffered by the victim;

(b) the mental anguish suffered by the victim;

(c) the expenditure incurred or likely to be incurred on the treatment and rehabilitation of the victim;

(d) the actual and projected earning capacity of the victim and the impact of its loss on the persons entitled to compensation and other members of the family;

(e) the extent, if any, to which the victim himself contributed to the injury;

(f) the expenses incurred in the prosecution of the case.

(7) In case of death or permanent disablement of the victim, the court may take into account the estimated annual income of the victim as multiplied by the number of years of his estimated span of life.

(8) Pending final determination of the proceeding, the Court may award, by way in interim relief, such compensation as it may think proper in the circumstances of the case at any stage of the case, even before judgement of conviction is passed.

(9) The Government may recover any amount paid by it as compensation under this section wholly or partly as it may think proper, from the delinquent public servant.

2 of 1974.

15. Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973, no previous sanction of the Central or State Government shall be necessary for prosecution of a police officer or a public servant accused of any custodial offence alleged to have been committed by him.

No previous sanction of Government for custodial offence prosecutions.

16. Whoever, being a police officer or a public servant—

(a) knowingly disobeys any direction of any law prohibiting him from requiring the attendance at any place of any person for the purpose of investigation into an offence or other matter, or

Punishment for knowingly disobeying any direction of law.

(b) knowingly disobeys any other direction of the law regulating the manner in which he shall conduct any investigation or arrest, to the prejudice of any person,

shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

17. (1) Every State Government and the Government of a Union Territory shall, by notification in the official Gazette, appoint a person to be known as the Vigilance Commissioner for Custodial Offences.

Vigilance Commissioner and District Vigilance Commissioner.

(2) The functions and powers of the Vigilance Commissioner shall be to—

(a) exercise superintendence over all investigations and prosecutions with respect to custodial offences;

(b) give directions to the concerned officers in all matters relating to investigation of and prosecution for custodial offences;

(c) review the progress of investigations and prosecution with respect to custodial offences;

(d) tender advice to the Government on all matters relating to custodial offences;

(e) call for information from any concerned officer or authority about custodial offences and about action taken on his recommendation or advice;

(f) collect or cause to be collected such statistics or data and other information as may be necessary for appropriate and effective discharge of the functions of the Commission;

(g) hold any inquiry pursuant to sub-section (7) of section 13; and

(h) discharge any other function as may be prescribed.

(3) The Government may, in consultation with the Vigilance Commissioner, appoint, by notification in the Official Gazette, a District Vigilance Commissioner for each District.

(4) The government may authorise a District Vigilance Commissioner to have jurisdiction over another district also for which no separate District Vigilance Commissioner has been appointed.

(5) A District Vigilance Commissioner shall have such powers and perform such function as may be entrusted to him by the Vigilance Commissioner appointed under sub-section (1) and shall discharge his duties subject to his directions.

(6) The qualification for appointment as Vigilance Commissioner or District Vigilance Commissioner and their terms and conditions of service shall be such as may be prescribed.

(7) The Government may, in consultation with Vigilance Commissioner, make rules with respect to strength of the staff of the Vigilance Commissioner or District Vigilance Commissioners and their conditions of service.

(8) The Government shall in making any rules or regulations governing matters relating to custodial offences, consult its Vigilance Commissioner.

(9) All directions relating to recording and investigations of and prosecution for, custodial offences given by the Vigilance Commissioner or the District Vigilance Commissioner shall be binding upon the officer concerned.

(10) The Vigilance Commissioner shall present annually a consolidated report on his functioning and on the administration of this Act to the Government, and the Government shall cause a copy thereof, together with its memorandum, to be laid before each House of the State Legislature within four months from the date of the receipt of the report by the Government or till the Legislature meets, next, whichever is later.

Power to
make rules.

18. (1) The State or the Union Territory Government, as the case may be, may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of the Act.

(2) In particular, and without prejudice to the generality of the foregoing process, such rules may provide for all or any of the following matters, namely—

(a) the form of the register as to information in respect of custodial crimes or offences maintained under section 13;

(b) the qualifications for appointment as Vigilance Commissioner or District Vigilance Commissioner and their terms and conditions of service under sub-section (6) of section 17;

(c) the strength of the staff and their conditions of service under sub-section (7) of section 17;

(d) any other power or function of the Vigilance Commissioner to be prescribed under clause (h) of sub-section (2) of section 17.

Rules to be
laid before
Legislature.

19. Every rule made by the Government under this Act shall be laid as soon as may be after it is issued or made, before each House of the Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Incidents of custodial crimes are a matter of serious concern and a disturbing factor in the society. They reflect 'betrayal of custodial trust by a public servant against the defenceless citizen.' As the Supreme Court has observed in *Kishore Singh V. State of Rajasthan* (AIR 1982 SC 624)—

"nothing is more cowardly and unconscionable than a person in police custody being beaten up, and nothing inflicts a deeper wound on our constitutional rights."

The constitutional and statutory framework in India contains a number of provisions safeguarding the liberty and the life of an individual. Nevertheless, there is a pressing need to supplement these safeguards to deal effectively with custodial offences which represent an onslaught on the law, human dignity and human right of the defenceless and vulnerables. There are important judicial pronouncements on the subject. In addition the Law Commission, the National Police Commission, the National Human Rights Commission, etc. have all made several recommendations.

Provisions against custodial crimes require amendments to a number of central Acts like the Indian Penal Code (45 of 1860), the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872 and others. Instead of these scattered amendments, it is, however, desirable to have a comprehensive legislation on the subject for the convenience of those in custody, their relatives, the concerned officials and the human rights organizations.

The Bill seeks to provide for prevention of and protection against custodial crimes, for compensation in case of custodial offences, for appointment of Vigilance Commissioners and District Vigilance Commissioners, and for matters connected therewith and incidental thereto.

NEW DELHI;
August 8, 2001.

G. M. BANATWALLA

FINANCIAL MEMORANDUM

In section 14, Sub-section (2) provides for payment of compensation by Government/public servants concerned to the victims of custodial offence. In section 17, Sub-section (1) provides for appointment of Vigilance Commissioner for custodial offences and Sub-section (3) provides for District Vigilance Commissioners, sub-section (6) authorises the Government of the State or the Union territory to determine their terms and conditions of services. Sub-section (7) of the said section 17 provides for the staff of the Vigilance Commissioners and the District Vigilance Commissioners. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India or the Consolidated Fund of respective state, as the case may be.

A rough estimate of non-recurring expenditure to every State is about rupees fifteen lakh to set up the office of the Vigilance Commissioner and the District Vigilance Commissioners. The recurring expenditure towards pay and allowances by each State is estimated to be approximately rupees fifty lakh per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (1) of section 13 of the Bill authorises the Government of the State or the Union territory, as the case may be, to prescribe the form of the register as to information in respect of custodial offences.

2. Sub-section (6) of section 17 empowers the concerned Government to prescribe by rules made under the Act, the qualifications for appointment as Vigilance Commissioner or District Vigilance Commissioners and to fix their terms and conditions of service.

3. Sub-section (7) of section 17 lays down that the strength of the staff for the Vigilance Commissioner and the District Vigilance Commissioners and their conditions of service be prescribed by the Government concerned.

4. Section 18 of the Bill empowers the State or the Union territory Government to make rules, by notification in the official Gazette, for the purpose of carrying out the provisions of the Bill. In particular, such rules may provide for all or any of the matters mentioned in paragraphs 1 and 2 above.

5. Section 19 provides that rules made under the Bill are required to be laid before the Legislature.

6. The matters in respect of which rules may be made are generally matters of procedure or administrative details and it is not practicable to make detailed provisions for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary General.